

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DUSTIN GORMLEY, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

NIKE, INC., an Oregon corporation,

Defendant.

Case No. 11-cv-00893-SI

**STIPULATION AND ~~PROPOSED~~ ORDER
TO CONSOLIDATE RELATED CASES AND
TO SET DATES FOR CONSOLIDATED
JOINT SCHEDULING CONFERENCE**

Judge: Hon. Susan Illston
Place: Courtroom 10, 19th Floor

Trial Date: Not Yet Set

ERIKA MCCARTNEY, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

NIKE, Inc., an Oregon corporation; and
DOES 1 through 20,

Defendants.

Case No. 11-cv-01588-SI

Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, plaintiffs Dustin Gormley and Erika McCartney and defendant Nike, Inc. (“Nike”) (collectively, “the Parties”), by and through their respective counsel, jointly submit the following Stipulation that the above-captioned related actions be consolidated.

RECITALS

WHEREAS, the above-captioned cases, *Dustin Gormley v. Nike, Inc.*, Case No. 11-cv-00893-SI (“*Gormley*”) and *Erika McCartney v. Nike, Inc., et al.*, Case No. 11-cv-01588-SI (“*McCartney*”), have been designated as related cases and assigned to the same judge;

WHEREAS, Nike filed its response to the *Gormley* complaint on April 22, 2011, and its response to the *McCartney* First Amended Complaint is due on or before May 23, 2011;

WHEREAS, under Rule 42(a) of the Federal Rules of Civil Procedure, the two cases warrant consolidation because they involve common questions of law and fact and because consolidation would advance the interests of judicial economy and efficiency.

STIPULATION

NOW, THEREFORE, IT IS STIPULATED AND AGREED, by the Parties, through their respective counsel of record, as follows:

1. Pursuant to Federal Rule of Civil Procedure 42(a), the *Gormley* and *McCartney* actions should be consolidated. Plaintiff in *McCartney*, however, wishes to maintain the complaints independent and preserve the separate nature of her action and defenses.

2. The Parties will coordinate and jointly meet and confer regarding discovery, class certification, dispositive motions, and other pretrial issues to avoid inefficiencies and duplicative efforts. For example, the parties agree judicial economy and efficiency mandate consolidated discovery and briefing with regard to class certification and dispositive motions.

3. In light of the Stipulation, the Case Management Conferences currently set for June 3, 2011 (*Gormley*) and August 26, 2011 (*McCartney*) should be taken off calendar, and, pending the Court’s approval of the Stipulation, the Parties should be relieved of all their obligations in connection with the currently set Case Management Conferences, including preparation of Rule 26(f) Reports.

1 4. Regardless of the Court's ruling on the Parties' Stipulation, a joint Case
2 Management Conference should be scheduled for a new date, at least thirty (30) days after Nike
3 files its response to the *McCartney* complaint.

4 **IT IS SO STIPULATED.**

5 Dated: May 11, 2011

COOLEY LLP
MICHELLE C. DOOLIN (179445)
BEATRIZ MEJIA (190948)
JENNIFER M. FRENCH (265422)

6
7
8 /s/Jennifer M. French

9 Jennifer M. French

10 Attorneys for Defendant
11 NIKE, INC.

12
13 Dated: May 11, 2011

HOFFMAN & LAZEAR
H. TIM HOFFMAN (049141)
ARTHUR W. LAZEAR (083603)
CHAD A. SAUNDERS (257810)

14
15
16
17 /s/Chad A. Saunders

18 Chad A. Saunders

19 Attorneys for Plaintiff
20 DUSTIN GORMLEY

21 Dated: May 11, 2011

PACIFIC JUSTICE CENTER
ROBERT B. HANCOCK (179438)
MELVIN B. PEARLSTON (54291)

22
23
24 /s/Robert B. Hancock

25 Robert B. Hancock

26 Attorneys for Plaintiff
27 ERIKA MCCARTNEY
28

FILER'S ATTESTATION

Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that all parties have concurred in the filing of this Stipulation to Consolidate Related Cases and to Set Dates for Consolidated Joint Scheduling Conference.

Dated: May 11, 2011

COOLEY LLP
MICHELLE C. DOOLIN (179445)
BEATRIZ MEJIA (190948)
JENNIFER M. FRENCH (265422)

/s/Jennifer M. French
Jennifer M. French

Attorneys for Defendant
NIKE, INC.

[PROPOSED] ORDER

Based on the foregoing, and good cause appearing, **IT IS HEREBY ORDERED** that:

1. The following related cases shall be and hereby are consolidated: *Dustin Gormley v. Nike, Inc.*, Case No. 11-cv-00893-SI (filed in N.D. Cal. Feb. 24, 2011) and *Erika McCartney v. Nike, Inc., et al.*, Case No. 11-cv-01588-SI (removed to N.D. Cal. Apr. 1, 2011).

2. The Parties shall coordinate and shall jointly meet and confer regarding discovery, class certification, dispositive motions, and other pretrial issues.

3. The Case Management Conferences currently set for June 3, 2011 (*Gormley*) and August 26, 2011 (*McCartney*) shall be ^{held on 6/3/11} ~~taken off calendar, and the Parties are relieved of their obligations in connection with these Case Management Conferences. The Court shall issue a new scheduling order for a Joint Case Management Conference.~~

IT IS SO ORDERED.

Dated: 5/18/11



THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE